

AMENDED IN SENATE JULY 15, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1552**

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**Introduced by Committee on Utilities and Commerce (Fuentes (Chair), Duvall (Vice Chair), Blakeslee, Buchanan, Carter, Fong, Furutani, Huffman, Krekorian, Smyth, and Torrico)**

March 10, 2009

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An act to amend Sections ~~395.5~~, 398.2, 398.3, 398.4, and 398.5 of the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1552, as amended, Committee on Utilities and Commerce. Electricity.

~~(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. Existing law defines an “electric service provider” as an entity that offers electrical service to customers within the service territory of an electrical corporation, excluding electrical corporations, local publicly owned electric utilities, and certain cogenerators. Provisions of the existing Public Utilities Act restructuring the electrical services industry require that electric service providers register with the commission, and provide for the authorization of direct transactions between electric service providers and retail end-use customers. The act requires the commission, pursuant to electrical restructuring, to authorize and facilitate direct transactions between electricity suppliers and retail end-use customers. However, other existing law suspends the right of retail end-use customers other than community choice aggregators, as defined, to acquire service from certain electricity suppliers, after a period of time to be determined by the commission,~~

~~until the Department of Water Resources no longer supplies electricity under that law. Notwithstanding this suspension, existing law, until January 1, 2010, authorizes a nonprofit charitable organization, to acquire electric commodity service through a direct transaction with an electric service provider if electric commodity service is donated free of charge without compensation.~~

~~This bill would extend until January 1, 2012, the authorization for a nonprofit charitable organization, to acquire electric commodity service through a direct transaction with an electric service provider if electric commodity service is donated free of charge without compensation.~~

~~(2) Existing~~

*The California Renewables Portfolio Standard Program requires the Public Utilities Commission to implement annual procurement targets for the procurement of eligible renewable energy resources, as defined, for all retail sellers, as defined, to achieve the targets and goals of the program. Existing law establishes a separate program under which retail suppliers of electricity disclose accurate, reliable, and simple to understand information on the generation attributes of the electricity they propose to sell, including eligible renewables, as defined. Existing law provides that a retail supplier that does not make any claims that identify its electricity sources as different than net system power, as defined, is authorized to disclose net system electricity sources.*

This bill would replace the term “retail supplier” with “retail seller” and would replace the term “eligible renewables” with “eligible renewable energy resources” *in the later described program* and would incorporate definitions for those terms that are applicable to the California Renewables Portfolio Standard Program. The bill would make other nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1     ~~SECTION 1. Section 395.5 of the Public Utilities Code is~~
- 2     ~~amended to read:~~
- 3     ~~395.5. (a) For purposes of this section, the following terms~~
- 4     ~~have the following meanings:~~
- 5     ~~(1) “Nonprofit charitable organization” means any charitable~~
- 6     ~~organization described in Section 501(c)(3) of the federal Internal~~

1 Revenue Code that has as its primary purpose serving the needs  
2 of the poor or elderly.

3 (2) “Electric commodity” means electricity used by the customer  
4 or a supply of electricity available for use by the customer, and  
5 does not include services associated with the transmission and  
6 distribution of electricity.

7 (b) Notwithstanding Section 80110 of the Water Code, a  
8 nonprofit charitable organization may acquire electric commodity  
9 service through a direct transaction with an electric service provider  
10 if electric commodity service is donated free of charge without  
11 compensation.

12 (c) A nonprofit charitable organization that acquires donated  
13 electric commodity service through a direct transaction pursuant  
14 to this section shall be responsible for paying all of the following:

15 (1) Those charges and surcharges that would be imposed upon  
16 a retail end-use customer of a community aggregator pursuant to  
17 subdivisions (d), (e), (f), and (g) of Section 366.2.

18 (2) The transmission and distribution charges of an electrical  
19 corporation or a local publicly owned electric utility.

20 (3) A nonbypassable charge imposed pursuant to Article 7  
21 (commencing with Section 381), Article 8 (commencing with  
22 Section 385), or Article 15 (commencing with Section 399).

23 (4) Costs imposed upon a load-serving entity pursuant to Section  
24 380.

25 (d) Existing direct access rules and all service obligations  
26 otherwise applicable to electric service providers shall govern  
27 transactions under this section.

28 (e) This section shall remain in effect only until January 1, 2012,  
29 and as of that date is repealed, unless a later enacted statute, that  
30 is enacted before January 1, 2012, deletes or extends that date.

31 ~~SEC. 2.~~

32 *SECTION 1.* Section 398.2 of the Public Utilities Code is  
33 amended to read:

34 398.2. For purposes of this article, the following terms have  
35 the following meanings:

36 (a) “Eligible renewable energy resource” shall have the same  
37 meaning as defined in Section 399.12.

38 (b) “Net system electricity” means the mix of electricity fuel  
39 source types established by the Energy Commission representing

1 the sources of electricity consumed in California that are not  
2 disclosed as specific purchases pursuant to Section 398.4.

3 (c) “Retail seller” has the same meaning as defined in Section  
4 399.12, and as further authorized pursuant to Section 399.12.5.

5 (d) “System operator” means the Independent System Operator  
6 with responsibility for the efficient use and reliable operation of  
7 the transmission grid, as provided by Section 345, or a local  
8 publicly owned electric utility that does not utilize the Independent  
9 System Operator.

10 (e) “Specific purchases” means electricity transactions which  
11 are traceable to specific generation sources by any auditable  
12 contract trail or equivalent, such as a tradable commodity system,  
13 that provides commercial verification that the electricity source  
14 claimed has been sold once and only once to a retail consumer.  
15 Retail sellers may rely on annual data to meet this requirement,  
16 rather than hour-by-hour matching of loads and resources.

17 ~~SEC. 3.~~

18 *SEC. 2.* Section 398.3 of the Public Utilities Code is amended  
19 to read:

20 398.3. (a) Beginning January 1, 1998, or as soon as practicable  
21 thereafter, each generator that provides meter data to a system  
22 operator shall report to the system operator electricity generated  
23 in kilowatthours by hour by generator, the fuel type or fuel types  
24 and fuel consumption by fuel type by month on an historical  
25 recorded quarterly basis. Facilities using only one fuel type may  
26 satisfy this requirement by reporting fuel type only. With regard  
27 to any facility using more than one fuel type, reports shall reflect  
28 the fuel consumed as a percentage of electricity generation.

29 (b) The Energy Commission shall have authorization to access  
30 the electricity generation data in kilowatthours by hour for each  
31 facility that provides meter data to the system operator, and the  
32 fuel type or fuel types.

33 (c) With regard to out-of-state generation, the Energy  
34 Commission shall have authorization to access the electricity  
35 generation data in kilowatthours by hour at the point at which  
36 out-of-state generation is metered, to the extent the information  
37 has been submitted to a system operator.

38 (d) Trade secrets as defined in subdivision (d) of Section 3426.1  
39 of the Civil Code contained in the information provided to the  
40 system operators pursuant to this section shall be treated as

1 confidential. These data may be disclosed only by the system  
2 operators and only by authorization of the generator except that  
3 the Energy Commission shall have authorization to access these  
4 data, shall consider all these data to be trade secrets, and shall only  
5 release these data in an aggregated form such that trade secrets  
6 cannot be discerned.

7 ~~SEC. 4.~~

8 *SEC. 3.* Section 398.4 of the Public Utilities Code is amended  
9 to read:

10 398.4. (a) Every retail seller that makes an offering to sell  
11 electricity that is consumed in California shall disclose its  
12 electricity sources. A retail seller that does not make any claims  
13 that identify its electricity sources as different than net system  
14 power may disclose net system electricity. Every retail seller that  
15 makes an offering to sell electricity that is consumed in California  
16 and makes any claims that identify any of its electricity sources  
17 as different than net system electricity shall disclose these sources  
18 as specific purchases.

19 (b) The disclosures required by this section shall be made to  
20 potential end-use consumers in all product-specific written  
21 promotional materials that are distributed to consumers by either  
22 printed or electronic means, except that advertisements and notices  
23 in general circulation media shall not be subject to this requirement.

24 (c) The disclosures required by this section shall be made at  
25 least quarterly to end-use consumers of the offered electricity.

26 (d) The disclosures required by this section shall be made  
27 separately for each offering made by the retail seller.

28 (e) On or before January 1, 1998, the Energy Commission shall  
29 specify guidelines for the format and means for disclosure required  
30 by Section 398.3 and this section, based on the requirements of  
31 this article and subject to public hearing.

32 (f) The costs of making the disclosures required by this section  
33 shall be considered to be generation related.

34 (g) The disclosures required by this section shall be expressed  
35 as a percentage of annual sales derived from each of the following  
36 categories, unless no specific purchases are disclosed, in which  
37 case only the first category shall be disclosed:

38 (1) Net system electricity.

39 (2) Specific purchases.

(h) (1) Each of the categories specified in subdivision (g) shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the categories specified as follows:

(A) Coal.

(B) Large hydroelectric (greater than 30 megawatts).

(C) Natural gas.

(D) Nuclear.

(E) Other.

(F) Eligible renewable energy resources, which shall be additionally identified as a percentage of annual sales that is derived from each fuel type of the subcategories specified as follows:

(i) Biomass and waste.

(ii) Geothermal.

(iii) Small hydroelectric (less than or equal to 30 megawatts).

(iv) Solar.

(v) Wind.

(2) The category “Other” shall be used for fuel types other than those listed above that represent less than 2 percent of net system electricity. The Energy Commission may specify additional categories or change these categories, consistent with the requirements of this article, California Renewables Portfolio Standard Program (Article 16 (commencing with Section 399.11)), and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(i) All electricity sources disclosed as specific purchases shall meet the requirements of subdivision (b) of Section 398.2.

(j) Specific purchases identified pursuant to this section shall be from sources connected to the Western Electricity Coordinating Council interconnected grid.

(k) Net system electricity shall be disclosed for the most recent calendar year available. Disclosure of net system electricity shall be accompanied by this qualifying note: “The State of California determines this net system electricity mix annually; your actual electricity purchases may vary.” The Energy Commission may modify this note, consistent with the requirements of this article and subject to public hearing, if it determines that the changes will facilitate the disclosure objectives of this section.

(l) For each offering made by a retail seller for which specific purchases are disclosed, the retail seller shall disclose projected

specific purchases for the current calendar year. Projected specific purchases need not be disclosed by numerical percentage at the subcategory level identified in subparagraph (F) of paragraph (1) of subdivision (h). Every retail seller that discloses specific purchases shall also disclose annually to its customers, separately for each offering made by the retail seller, its actual specific purchases for the previous calendar year consistent with information provided to the Energy Commission pursuant to Section 398.5. Disclosure of projected specific purchases and actual specific purchases shall each be accompanied by statements identifying whether the data are projected or actual, as developed by the Energy Commission, subject to public hearing.

(m) The provisions of this section shall not apply to generators providing electric service onsite, under an over-the-fence transaction as described in Section 218, or to an affiliate or affiliates, as defined in subdivision (a) of Section 372.

~~SEC. 5.~~

*SEC. 4.* Section 398.5 of the Public Utilities Code is amended to read:

398.5. (a) Retail sellers that disclose specific purchases pursuant to Section 398.4 shall report on or before March 1 of each year to the Energy Commission, for each electricity offering, for the previous calendar year each of the following:

(1) The kilowatthours purchased, by generator and fuel type during the previous calendar year, consistent with the meter data, including losses, reported to the system operator.

(2) For each electricity offering the kilowatthours sold at retail.

(3) For each electricity offering the disclosures made to consumers pursuant to Section 398.4.

(b) Information submitted to the Energy Commission pursuant to this section that is a trade secret as defined in subdivision (d) of Section 3426.1 of the Civil Code shall not be released except in an aggregated form such that trade secrets cannot be discerned.

(c) The Energy Commission shall specify guidelines and standard formats, based on the requirements of this article and subject to public hearing, for the submittal of information pursuant to this article.

(d) In developing the rules and procedures specified in this section, the Energy Commission shall seek to minimize the

1 reporting burden and cost of reporting that it imposes on retail  
2 sellers.

3 (e) On or before October 15 of each year, the Energy  
4 Commission shall issue a report comparing information available  
5 pursuant to Section 398.3 with information submitted by retail  
6 sellers pursuant to this section, and with information disclosed to  
7 consumers pursuant to Section 398.4. This report shall be  
8 forwarded to the commission.

9 (f) On or before April 15 of each year, the Energy Commission  
10 shall issue a report calculating net system electricity. The Energy  
11 Commission will establish the generation mix for net generation  
12 imports delivered at interface points and metered by the system  
13 operators.

14 (g) The provisions of this section shall not apply to generators  
15 providing electric service onsite, under an over-the-fence  
16 transaction as described in Section 218, or to an affiliate or  
17 affiliates, as defined in subdivision (a) of Section 372.

18 (h) The Energy Commission may verify the veracity of  
19 environmental claims made by retail sellers.